IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CWP No.3466 of 2007
Date of Decision: 8.3.2007

Haryana Forest Development Corporation Limited and another

Petitioners

versus

Presiding Officer, Labour Court, Hisar and another

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Shri Subhash Ahuja, Advocate for the petitioner

Jasbir Singh, J. (Oral)

By filing this writ petition, the petitioners have laid challenge to award dated 7.11.2006 (Annexure P/7), vide which, the Industrial Tribunal-cum-Labour Court, Hisar ordered reinstatement of the respondent-workman in service alongwith 50% of the back wages.

It is apparent from the records that the respondent-workman, by stating that his service was terminated on 19.3.2004, without complying with the provisions of Section 25-F of the Industrial Disputes Act, 1947 (in short the Act), claimed that he be reinstated in service. Matter was referred to the Labour Court for adjudication and after considering evidence on record, the Court below came to a conclusion that in 12 months, preceding to the date of his termination, the respondent-workman had completed 240 days with the petitioner. To say so, reliance has been placed upon the documents put on record, including the transit slips signed by the respondent-workman. To conclude that the workman had completed 240 days, it was observed thus:-

"9.Therefore, point for determination is as to whether or not the workman had worked for the required 240 days during twelve months period preceding the date of termination. Parties are at variance with regard to the date till which the workman had served the management. The workman claimed that his services were terminated on 19.3.2004 while the management claimed that the workman had lastly worked for 15 days in February 2004. The workman in order to prove his version has relied upon relevant extracts of transit pass book entries Mark DD to Mark HH relating to the month of March 2004. These were the passes on which the workman had signed during the course of discharge of his duties as Chowkidar. The original record pertaining to these passes was in possession of the management. Copies of these documents were shown to management's witness Bhupinder Singh MW1 during the course of his cross-examination and he admitted that the same were part of the management's record. The management could not impeach the credibility of these documents in any manner. So, the transit passes can be safely acted upon and workman's version deserves credibility on the point that he had signed the transit passbook entries in the month of March, 2004 during the course of discharge of his duties. In other words, the above referred documents have the effect of proving that the workman had worked till 19.3.2004.

10.Considering the date of termination as 19.3.2004, the period of twelve months for the purpose of reckoning the benefit of Section 25F of the Act would be from April 2003 to March 2004. The management has detailed out summary of workman's service in its written statement. The workman was therein shown to have rendered 104 days service during twelve months period ranging between April 2003 to February 2004. The workman has succeeded in proving that the working details so given were wrong. For example, the management had shown that the workman did not work at all during the months of November 2003 and March 2004 whereas the transit pass book entries Mark H to Mark N pertaining to November 2003 and Mark AA to Mark HH pertaining to March 2004 prove that he had been working with the management during these months. Once

the workman had impeached the genuineness of working details given in written statement, onus shifted to the management to lay before the court complete attendance record for the purpose of proving that the workman did not work for the required 240 days during twelve months period preceding the date of termination. The management has not produced the relevant record and, therefore, an adverse inference deserves to be drawn to the effect that the workman had worked for the required 240 days and is entitled to the benefit of Section 25F of the Act."

It is an admitted fact that before terminating service of the workman, no compliance was made to the provisions of Section 25-F of the Act. It is a case, where an attempt was made by the management, to mislead the Court, by stating that the respondent-workman ceased to be in service in the month of February 2004. Copies of the transit slips signed by the respondent-workman were put to Bhupinder Singh (MW1) during his cross-examination and he has admitted authenticity of those documents. By taking note of the same, the Court below has arrived at a conclusion that the workman had completed the requisite period with the petitioner-management, to claim benefit of Section 25-F of the Act. No case is made out for interference.

Dismissed.

(Jasbir Singh)
Judge

March 08, 2007 **(Nirmal Yadav)**
gk **Judge**